

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

DO: [REDACTED]  
EIN: [REDACTED]

MAR 8 - 1991

Dear Applicant:

This is in reply to your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

We have reviewed the information you have submitted and have concluded that you do not qualify for recognition of exemption under section 501(c)(6) of the Code.

Your Articles of Incorporation state that your purposes are to enhance the effective utilization of private supplemental learning centers and to gather and disseminate information concerning matters of common concern to the owner-operators of private supplemental learning centers. Your bylaws and other information you have submitted establish that you are controlled by and your activities are directed towards improving the business conditions of franchisees, and owner/franchisees of [REDACTED] in the State of [REDACTED]. You state that your purpose is to improve the effectiveness of private supplemental learning centers. However, your advertising and promotional materials promote [REDACTED] to the exclusion of any other type of learning center. In addition, your bylaws limit membership to owners, directors, or Education Directors of [REDACTED] [REDACTED] are franchise operations, which are licensed by a for-profit corporation to provide supplemental education programs.

In your submissions you state that you are "an association having the purpose of promoting the common business interest of [REDACTED] franchises." In addition, you state that another purpose "is to work with [REDACTED] Management and other franchise owners to insure that the instruction and motivation programs are uniform throughout the state and some [REDACTED] centers throughout the U.S. and Canada." The financial information you have submitted establishes that your expenses are primarily for advertising [REDACTED], purchasing supplies for your members, promoting [REDACTED] and attending conventions and meetings. You attend or otherwise support various educational non-profit organizations by attending conferences,

Re: [REDACTED]

meetings and conventions. However, it appears that your attendance at such meetings is often done to promote [REDACTED]. You state that the advertisements and promotional brochures you distribute at conventions and elsewhere serve the interests of your members and help them lower costs. Your activities are funded by assessing individual member learning centers a fee of \$[REDACTED] per month.

Section 501(c)(6) of the Code provides, in part, for the exemption from Federal income tax of business leagues, chambers of commerce, real-estate boards, and boards of trade, not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons.

In National Muffler Dealers Association, Inc. v. U.S., 440 U.S. 472 (1979), the Supreme Court held that an organization that promotes a single brand of muffler is not exempt under section 501(c)(6) of the Code because it does not promote a line of business as required in the regulations. In this case the court stated that, "an organization with a primary objective other than to benefit an entire industry and with a purpose to promote and give a competitive advantage to one product or one segment of a business cannot satisfy the line of business test." The Court further concluded that exemption under section 501(c)(6) is not available to aid one group in competition with another within an industry.

Rev. Rul. 66-338, 1966-2 C.B. 226, holds that an organization formed to promote the interests of a particular retail trade which advises its members in the operation of their individual businesses and sells supplies and equipment to them is not exempt under section 501(c)(6) of the Code.

Rev. Rul. 67-77, 1967-1 C.B. 138 holds that an organization composed of dealers in a certain make of automobile in a designated area which is organized and operated for the primary purpose of financing general advertising campaigns to promote the sale of that make of automobile is performing particular

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services for its members and not exempt under section 501(c)(6) of the Code.

Rev. Rul. 68-264, 1968-1 C.B. 264, defines a particular service for the purposes of section 501(c)(6) of the Code as an activity that serves as a convenience or an economy to the members of the organization in the operation of their own businesses.

The information you have submitted establishes that you are controlled by and actively promote the interests of franchisees and franchise owners of [REDACTED]. Your membership is limited to owners, directors, or Education Directors of [REDACTED]. The promotional materials you purchase and distribute are directed towards educating the public and other educational institutions about [REDACTED]. Although you attend and are otherwise involved in educational conventions and meetings with other educational institutions, it is clear that, at least in part, your attendance helps promote the common business interests of the [REDACTED] Franchises. Promoting a single product or one segment of a business in order to give it a competitive edge does not satisfy the line of business test of section 501(c)(6) of the Code. See National Muffler Dealers Association, Inc. v. U.S., supra. This is true even though your articles of incorporation indicate that you are operating to improve the conditions of all private supplemental learning centers.

In Rev. Rul. 66-338, supra, an organization established to purchase supplies and equipment for its members was held not to qualify for exemption under section 501(c)(6) of the Code. Furthermore, in Rev. Rul. 67-77, supra, an organization providing advertising for its members all of whom sold one particular make of automobiles was determined not to qualify for exemption under section 501(c)(6). The submitted information establishes that you purchase educational supplies, advertising and promotional brochures for your members in order to enable them to lower their individual costs. These activities serve as an economy or a convenience to your members in the operation of their individual businesses and therefore is a particular service within the meaning of section 501(c)(6) of the Code. See Rev. Rul. 68-264, supra. Furthermore, because the expenses you incur in this regard make up the majority of your expenses, we must conclude that even if you represented a line of business, the majority of your activities are particular services for your members. Such activities are not exempt activities within the meaning of section 501(c)(6).

Re: [REDACTED]

Therefore, we have concluded that you do not qualify for exemption under section 501(c)(6) of the Code because your membership does not represent a common line of business. In addition, you do not qualify for exemption under section 501(c)(6) because your primary activity is to provide particular services to your members.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [REDACTED]. These symbols do not refer to your case but rather to its location.

Sincerely yours,

(s) [REDACTED]

Chief, Exempt Organizations  
Rulings Branch 1